

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Daren Moore,

Case No. 3:15CV726

Plaintiff

v.

ORDER

Allen County Regional Transit Authority, et al.,

Defendant

This is a suit under § 301 of the Labor Management Relations Act, 29 U.S.C. § 185(a). The plaintiff is a former employee of the defendant Allen County Regional Transit Authority and a member, as of the time of his discharge, of the defendant Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO.

Pending is the union's motion to dismiss. (Doc. 9), to which the plaintiff has responded. (Doc. 14). The motion is well-taken, and, for the reasons that follow, I will dismiss the complaint as to all defendants.

The gravamen of the motion to dismiss is that this court lacks jurisdiction under the LMRA. Defendant is correct: plaintiff was a public employee, and his former employer, the Transit Authority, is a public agency established under the laws of Ohio. The LMRA specifically excludes from its coverage "the United States . . . or any state or political subdivision thereof." 29 U.S.C. § 152(2).

That being so, plaintiff cannot maintain this suit against the union.

In addition, the employer, though it has not sought dismissal, is also entitled to dismissal. It is black letter law that if a union member cannot prevail in a § 301 suit against his or her union, he or she cannot prevail against the employer. *DelCostello v. Int'l Bhd. of Teamsters*, 462 U.S. 151, 164-65 (1983); *Bagsby v. Lewis Bros., Inc.*, 820 F.2d 799, 801 (6th Cir. 1987).

It is, accordingly, hereby

ORDERED THAT defendant's motion to dismiss (Doc. 9) be, and the same hereby is, granted; the Clerk shall enter dismissal as to all defendants and close the case.

An appeal from this decision would not have plausible merit, and jurists of reason would find it not well founded; no appeal shall, therefore, be allowed without prepayment of the requisite costs.

So ordered.

/s/ James G. Carr
Sr. U.S. District Judge